

IMPORTANT

NOTICE OF WATER RIGHTS ADJUDICATION

**Rio Chama Stream System
Section 1
Rio del Oso and Rito Vallecitos**

PLEASE READ THIS NOTICE CAREFULLY. IT DESCRIBES PROCEEDINGS THAT MAY AFFECT YOUR LEGAL RIGHTS. This notice describes litigation concerning water rights in the Rio Chama stream system, describes documents you are receiving concerning that litigation, and describes actions you may take to protect your rights.

The records of the New Mexico Office of the State Engineer show that you may have a claim to use surface water for irrigation purposes in the Rio del Oso and Rito Vallecitos in Section 1 of the Rio Chama stream system. The State Of New Mexico filed suit in *State of New Mexico ex rel. State Engineer v. Aragon*, No. 69-CV-07941, requesting the United States District Court to determine the extent of all rights, including any you may have, to use the surface waters of the Rio del Oso and Rito Vallecitos for irrigation purposes. That is why the enclosed documents have been served to you. The purpose of this notice is to explain the water rights adjudication process.

State law requires the Office of the State Engineer make hydrographic surveys that are delivered to the Attorney General who then brings suit for the adjudication of rights to use water. All persons that the Office of the State Engineer can identify who may claim the right to the use of water must be made parties to the lawsuit. A hydrographic survey is a technical study that identifies, maps and reports the use of water in a particular stream system.

A hydrographic survey starts with aerial photography and a review of the existing water rights records in the area. The Office of the State Engineer Hydrographic Survey Bureau recorded in the Rio del Oso and Rito Vallecitos Hydrographic Survey information on irrigation use. Land ownership was verified using information from county records. Although a hydrographic survey gathers information on land ownership, it does not establish legal ownership of land or determine property boundaries. The survey only produces evidence on the location, amount and ownership of water rights.

Enclosed Documents

This packet contains the following documents in addition to this Notice:

- (1) Complaint
- (2) Summons
- (3) Procedural Order
- (4) Notice of Field Office Sessions
- (5) Proposed Consent Order
- (6) Subfile aerial photography
- (7) Form Answer

Please read the explanations in this Notice carefully. If you have an attorney who represents you in these matters or you retain an attorney, you should give the attorney these papers and have her or him contact us. If you do not have an attorney, you may call the State's Special Assistant Attorneys General, but because they represent the State they cannot act as your attorney and cannot provide you with legal advice. The State's attorneys may answer questions about the enclosed documents.

(1) Complaint

The enclosed Complaint is a copy of the original complaint filed for the adjudication of all rights to use water in the entire Rio Chama stream system. Court rules require that every person with a claim to water rights be served with a copy of the original Complaint and be joined as a defendant in the lawsuit.

(2) Service of summons

Pursuant to the Procedural Order entered by the District Court on June 28, 2016, the deadline for answering the Complaint after service of the summons by certified mail, return receipt requested, restricted delivery, is within 60 days of service of the Complaint.

(3) Procedural Order

This document sets out the procedures adopted by the United States District Court on June 28, 2016, for the adjudication of water rights claims in the Rio del Oso and Rito Vallecitos.

(4) Proposed consent order

The proposed consent order includes the name of the person or entity that the State believes is the owner of the water right for a particular tract of land. The proposed consent order is a proposed agreement between the owner of a water right and the State that defines 1) the place and purpose of water use; 2) the point of diversion; 3) the source of the water; 4) the location and size of any irrigated acreage; 5) the amount of water; and 6) the priority date.

(a) Agreement with proposed consent order

If you agree with how the State has defined your water right in the proposed consent order and with the location of the irrigated acreage shown on the aerial photograph, you may sign and return the proposed consent order to the Office of the State Engineer (address on page 3). However, you are under no legal obligation to do so, and you are free to challenge the description of the water right in part or completely. If you sign the proposed consent order the State will ask the District Court to enter it as a final order adjudicating your right subject to objection by any other water right owner in later phases of this adjudication.

(b) Disagreement with proposed consent order

If you disagree with the description of the water rights in the proposed consent order, you must attend a field office session. You are required to bring to the field office session any documents or other information that supports your position.

Failure to attend a scheduled field office session or make other arrangements with the State for a field investigation shall be considered grounds for entry of a default order by the Court that incorporates the State's proposed consent order.

(c) Answer rejecting proposed consent order

If you disagree with the description of the water right in the proposed consent order, and you cannot resolve the disagreement with the Office of the State Engineer staff, you must complete and file an answer with the United States District Court rejecting the terms of the proposed consent order within 60 days of service of the proposed consent order. An answer rejecting the State's proposed consent order shall include a statement explaining specifically why the proposed consent order is objectionable, and a statement that the claimant made a good faith attempt to resolve the disagreement with the State. Documents that must be filed with the Court, including the answer, may be mailed or hand-delivered to the following address:

United States District Court Clerk
333 Loma NW, Ste. 270
Albuquerque, NM 87102

Failure to sign and return a proposed consent order or file an answer within 60 days of service of the proposed consent order, shall be considered grounds for entry of a default order by the Court that incorporates the terms of the State's proposed consent order.

If you are not the owner of the water rights described in the proposed consent order, we request that you fill out the enclosed form answer, indicate that you make no claim to the water rights described in the proposed consent order, and file the form answer with the District Court (address above). You will then be dismissed from this suit.

(5) Subfile aerial photographs

This is a color aerial photograph of your property which was identified in the hydrographic survey. Irrigated tracts that the State believes are legally entitled to the use of water are outlined in green. The acreage of the tracts is also depicted. If there is a yellow outline on the aerial photography marked "No Right," the State believes there are no water rights to irrigate this area.

The hydrographic survey is available for viewing at the County Assessor's Office in Española, at the Office of the State Engineer in Santa Fe and on the Office of the State Engineer's website: http://www.ose.state.nm.us/HydroSurvey/legal_ose_hydro_rio_oso.php.

(6) Field office sessions

Office of the State Engineer staff and attorneys will conduct field office sessions at the Abiquiu Rural Events Center, US Highway 84, State Road 554, House #122A, Abiquiu, New Mexico, to discuss your individual proposed consent order and claims. Field office sessions for claimants will be held from 1:00 p.m. to 6:00 p.m., September 14, 2016, and 10:00 a.m. to 3:00 p.m., September 16, 2016.

Persons attending field office sessions will meet with Office of the State Engineer staff on a first come, first serve basis. A sign-in sheet will be available and persons will be seen in the order in which they sign in. Persons may also write or call and request to meet with Office of the State Engineer staff at times other than the dates above at the Office of the State Engineer in Santa Fe. To arrange a meeting please contact:

Kelly Brooks Smith, kelly.smith@state.nm.us
Leila J. Reilly, leila.reilly@state.nm.us
(505) 827-6150
Special Assistant Attorneys General
P.O. Box 25102
Santa Fe, NM 87504-5102

If you have questions about the proposed consent order, or if you disagree with any element of the proposed consent order, **YOU MUST ATTEND A FIELD OFFICE SESSION** and discuss the disagreement with the Office of the State Engineer staff. The Court rules require that you bring to the field office any documents or other information that support your position. Good faith participation in field office sessions is also required by the Court rules.

Change of Address

During the pendency of the adjudication, all claimants, whether or not they are represented by counsel, are responsible for informing the District Court of any changes in their mailing address or changes in the ownership of the water rights or real property associated with the rights. The information must be filed with the Court within 30 days of any change.